

**d.) Remarks.**

Applicant has canceled claims 63 and 72, and amended claims 1, 10, 11, 20, 25, 65, 68 and 73, all to more clearly define the invention. Claim 1 was amended to incorporate the inventive aspect of claim 10, claim 20 was amended to incorporate the inventive aspect of claim 25, and claim 65 was amended to incorporate the inventive aspect of claim 72. Claims 11 and 73 were amended to correct dependencies in accordance with the amended claims. The subject matter of claim 22 was incorporated into claims 10 and 68 (which were otherwise canceled), and the subject matter of claim 19 was incorporated into claim 25 (which would also otherwise be canceled). No new matter or new issues are presented with these amendments. Accordingly, claim 1-29, 46-62, 64-71 and 73-75 are currently pending.

**Remarks Regarding 35 U.S.C. § 112, Second Paragraph**

Claims 1-25 stand rejected, under 35 U.S.C. § 112, second paragraph, as allegedly indefinite. In the Office Action, the term “at least some” is considered to be indefinite and the examiner states that he has interpreted the phrase to mean “at least one” (Office Action, paragraph spanning pages 2-3). In accordance with the Examiner’s interpretation, this phrase has been amended to recite “at least one” and, thus, this rejection is moot.

**Remarks Regarding 35 U.S.C. § 103(b)**

- A.** Claims 1-3, 5-11, 16, 17, 46, 47, 51-53 and 57-59 stand rejected, under 35 U.S.C. § 103(b), as allegedly obvious over Ballantyne et al. (U.S. Patent No. 5,867,821; “Ballantyne”), [and] further in view of Shear (U.S. Patent No. 4,827,508).
- B.** Claims 20-22 and 26-29 stand rejected, under 35 U.S.C. § 103(b), as allegedly obvious over Baker further in view of Ballantyne.
- C.** Claims 4, 12-15 and 48-50 stand rejected, under 35 U.S.C. § 103(b), as allegedly obvious over modified Ballantyne and Shear, and further in view of Baker.

D. Claims 18, 19 and 54-56 stand rejected, under 35 U.S.C. § 103(b), as allegedly obvious over modified Ballantyne and Shear, and further in view of Arpeggio.

E. Claims 23-25 stand rejected, under 35 U.S.C. § 103(b), as allegedly obvious over modified Baker and Ballantyne, and further in view of Arpeggio.

Applicant respectfully traverses these rejections and incorporates the arguments as set forth in the Response filed February 25, 2005. In addition, applicant provides the following additional remarks.

All prior art rejections are based on certain alleged disclosures in Ballantyne. As was discussed at the interview on April 11, 2005, Ballantyne does not suggest the claimed invention either solely or in combination with the cited references. As claimed, applicant's invention is a patient-based medical record system. In accordance therewith, and as stated by applicant at page 13, lines 3-5 of the specification: "*The system of the invention is patient-based, which means that, unlike institution-based medical records systems (e.g. hospital-based), the medical records of an individual are controlled and managed by that individual.*" In contrast, Ballantyne is a hospital-based system. Thus, the combination of Ballantyne with the cited references would lead one skilled in the art only to other hospital-based systems. As applicant's patient-based system is not disclosed in Ballantyne or suggested from any combination of the cited references, all these rejections are overcome.

Applicant has also combined the aspects of claims 10 and 63 with claim 1, the aspect of claim 25 with claim 20, and the aspect of claim 68 with claim 65. None of the cited references, either alone or in combination, disclose or suggest a vetted and certified system as to the accuracy and correctness of the information contained with medical records. Information so vetted and certified possesses the characteristic of non-repudiation, which is not non-repudiation in the context of public key infrastructure ("PKI") systems, as was discussed at the Interview.

### **Interview Summary Statement**

The undersigned appreciates the opportunity to meet with Examiner Pzyocha and Supervisor Caldwell on Monday, April 11, 2005. At that meeting, the invention was generally discussed as were the claims, the rejections set forth in the Office Action and the Ballantyne reference. The discussion that took place at the interview are set forth in the Interview Summary provided by PTO, which is attached hereto.

Notably, applicant pointed out that the claimed invention is a patient-based system. Applicant's definition of a patient-based system can be found at page 13, lines 3-5. No patient-based system is disclosed or suggested in any of the cited references either individually or in combination, which, at best, disclose hospital-based systems that teach against applicant's invention.

Also notably, applicant explained that non-repudiation, according to the claimed invention, is not non-repudiation in the context of a PKI system. Pursuant to the claimed invention, non-repudiation is a consequence of vetting and certification of the information contained within the medical record as accurate and correct as to accuracy of transcription. The independent claims were amended to incorporate certification and accuracy of transcription to expedite a prompt allowance.

**Conclusion**

The application including pending claims 1-29, 46-62, 64-71 and 73-75, are believed to be in condition for allowance and the prompt issuance of a Notice of Allowance is respectfully requested.

No fees are believed to be due with the filing of this Amendment. However, if any fees are later determined to be due, including any fees for an extension of time, applicant respectfully requests that extension and that all such fees be charged to **Deposit Account No. 50-1682, referencing Attorney Docket No. 144009.00100.**

Respectfully submitted  
**POWELL GOLDSTEIN LLP,**

Date: April 20, 2005

By: 

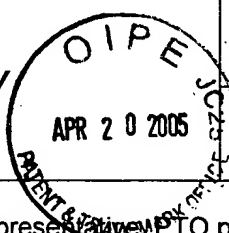
James Remenick  
Attorney for Applicant  
Registration No. 36,902

Enclosed: Interview Summary

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# Interview Summary



Application No.

09/822,261

Applicant(s)

KNAUS ET AL.

Examiner

Michael Pyzocha

Art Unit

2137

All participants (applicant, applicant's representative, PTO personnel):

(1) Michael Pyzocha and Andrew Caldwell.

(3) William Knaus.

(2) Richard Marks.

(4) James Remenick.

Date of Interview: \_\_\_\_\_.

Type: a) ☐ Telephonic b) ☐ Video Conference

c) ☒ Personal [copy given to: 1) ☐ applicant 2) ☒ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.

If Yes, brief description: \_\_\_\_\_.

Claim(s) discussed: 1 and 21.

Identification of prior art discussed: Ballantyne (US 5867821 A).

Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Andrew Caldwell

Examiner's signature, if required

## Summary of Record of Interview Requirements

### Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

### Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

### 37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

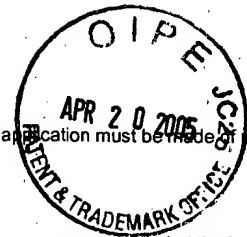
A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,  
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

### Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.



Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Discussed claims 1 and 21 regarding patient-based aspect of the claims; discussed Ballantyne, specifically Fig. 1 and column 12 and differences between pen authorization and non-repudiation as claimed by applicant; discussed specification and sections having to do with patient-based (pages 11 and 13) and non-repudiation (page 17); discussed difference between patient-based records and institution-based records; discussed how claimed non-repudiation is difference from "non-repudiation" as used in context of PKI systems; and discussed how the combination of patient-based and non-repudiation allows resulting records to be used across multiple treatment settings.